

REMARKS

In response to the Official Action of January 6, 2009, claims 1, 2, 6, 7, 21, and 27 have been amended in a manner which is believed to particularly point out and distinctly claim the invention, including to address the issues raised in the Response to Arguments section at pages 2 and 3 of the Official Action. After amendment, claims 1-6, 8-27, and 29-32 are pending. No new matter is added.

Claim Rejections - 35 USC §103

At pages 4-19, claims 1-5, 8, 10-12, 14-27, 29, and 32 are rejected under 35 USC §103(a) as unpatentable over WO 01/31963, Hasan, et al (hereinafter Hasan), in view of US patent application publication 2003/0119508, Gwon, et al (hereinafter Gwon), further in view of US patent application publication 2003/0114158, Soderbacka, et al (hereinafter Soderbacka).

With respect to claim 1, the Office asserts that Hasan discloses the recited method except that it fails to disclose transmitting a notification to said mobile terminal, which notification indicates that said mobile terminal may request a delivery of said provided content clip and receiving a content clip from a content server upon initiation of a content provider for delivery to a particular mobile terminal. It is asserted that Gwon discloses transmitting a notification to a mobile terminal, which notification indicates that said mobile terminal may request a delivery of said provided content clip. Furthermore, the Office asserts that Soderbacka discloses receiving a content clip from a content server upon initiation of a content provider for delivery to a particular mobile terminal. For the reasons set forth below, application respectfully disagrees.

Initially, applicants' undersigned attorney hereby states that the present application and the Soderbacka reference, (US patent application publication 2003/0114158) were, at the time the present invention was made, owned by, or subject to an obligation of assignment to the same person; namely, Nokia Corporation, an organization duly organized and existing under the laws of Finland, and having a principle place of business at Keilalahdentie 4, FI-02150 Espoo, Finland. As a result, Soderbacka cannot be combined with the other references

under usage of §102/103(a) since under 35 USC §103(c) a safe harbor precluding such usage has been established by the above statement of applicants' attorney of record. See "Guidelines Setting Forth a Modified Policy Concerning the Evidence of Common Ownership, or an Obligation of Assignment to the Same Person, as Required by 35 USC §103(c), 1241 OG 96 (Dec. 26, 2000); MPEP §706.02(e)(2)".

Furthermore, claim 1 has been slightly amended to make clear that the method recites not only receiving a content clip from a content server upon initiation of a content provider for delivery to a particular mobile terminal, but that the subsequent transmitting a notification to said mobile terminal - which notification indicates that said mobile terminal may request a delivery of said content clip - is with respect to the content clip received from said content server. It is therefore clear that the content clip which has been previously received from the content server is held for delivery to the mobile terminal, and that such delivery to the mobile terminal is only upon a request by said mobile terminal to deliver said content clip. This amendment to claim 1 eliminates any potential ambiguity concerning the previously recited action of delivering said content clip to said mobile terminal via said radio access network of said type required for delivering said content clip, wherein that action could have been interpreted as not requiring request by said mobile terminal to deliver said content clip. As amended, it is clear that delivering said content clip to said mobile terminal via said radio access network of said type required for delivering said content clip is only upon a request by said mobile terminal to deliver said content clip. This amendment therefore addresses the issue of the fact that the content clip which has already been provided by the content server upon initiation of a content provider for delivery to a particular mobile terminal is by necessity maintained prior to such request by said mobile terminal to deliver said content clip.

Consequently, the issue raised in the Response to Arguments section concerning claim 1 has been addressed in a manner which clearly distinguishes the present invention over the cited art for the reasons previously argued in applicant's response filed on October 17, 2008.

More particularly, with this amendment, claim 1 emphasizes that a content clip is provided by a content server upon initiation of a content provider for delivery to a

particular mobile terminal and thus that an exchange with the mobile terminal on whether to forward the content clip to the mobile terminal is carried out only after delivery of the content clip by the content server. This becomes clear from the passage "which notification indicates that said mobile terminal may request a delivery of said content clip received from said content server" (emphasis added) as set forth at claim 1, lines 17-18.

Thus, claim 1 differs from Hasan at least for the following reasons:

- a) The content clip is not requested by the mobile terminal, but rather provided upon initiation of a content provider for delivery to a particular mobile terminal.
- b) The content clip already provided by the content server is kept in a waiting stage on its way from the content server to the particular mobile terminal while checking the necessity of a handover (the necessity depending on the current access network and on a delivery request by the mobile terminal). In Hasan, there is no indication that content could leave a content server before it is clear that it shall be delivered to the requesting mobile terminal and that a handover - if required - has been completed.
- c) The content clip is delivered to the mobile terminal only when requested by the mobile terminal upon a notification that delivery of a content clip may be requested. Such a notification and request would not make sense in Hasan taken alone or in combination with Gwon, since it is the mobile terminal which requested the service in the first place.

Gwon does not provide a hint at aspect c) either, since it does not provide the mobile terminal with a notification that the delivery of a content clip may be requested. Gwon deals with the determination of the best timing of a handover during an already established connection (Gwon, Abstract, paragraph [0009]). Thus, the mobile terminal already knows that data may be delivered so that a notification that a delivery of content clip may be requested would make no sense. There is also no hint at aspects a) and b) in the Gwon reference.

As indicated above, Soderbacka is not a proper reference and cannot be relied upon to make up for the deficiencies in Hasan and Gwon.

For all of the above reasons, it is therefore respectfully submitted that claim 1 as amended is distinguished over Hasan further in view of Gwon and that Soderbacka is not a proper reference with respect to the claimed invention.

For similar reasons as those presented above with respect to claim 1, independent claims 17, 21, 22, and 32 are also distinguished over Hasan and Gwon with the inapplicability of Soderbacka. In this regard, slight amendment has been made to claim 17 to avoid a possible ambiguity concerning the term "content clips" which has been amended to "content clip". Claim 21 has been amended to correctly state that the content clip has been received from a content server upon initiation of a content provider and to further make clear that the delivery of the content clip to the mobile terminal is with respect to the content clip received from said content server.

Since each of the independent claims of the present application are believed to be allowable, it is respectfully submitted that dependent claims 2-5, 8, 10-12, 14-16, 18-20, 23-27, and 29 are also allowable at least in view of such dependency.

At pages 19-21 of the Official Action, claims 6 and 31 are rejected under 35 USC §103(a) as unpatentable over Hasan in view of Gwon and Soderbacka, further in view of US patent application publication 2003/0022624, Sato. Soderbacka, as indicated above, is not a proper reference with regard to the rejection of these claims. Furthermore, claims 6 and 31 are both dependent claims which ultimately depend from independent claims which are believed to be allowable and therefore claims 6 and 31 are at least allowable at least in view of such dependency.

At pages 21-23, claims 9, 13, and 30 are rejected under 35 USC §103(a) as unpatentable over Hasan in view of Gwon further in view of Soderbacka. Soderbacka is not a proper reference with regard to rejection under 35 USC §103(a). Furthermore, claims 9, 13, and 30 are each dependent claims which ultimately depend from independent claims which are believed to be allowable and at least in view of such dependency, claims 9, 13, and 30 are also believed to be allowable.

In view of the foregoing, it is respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited.

Respectfully submitted,



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Dated: May 14, 2009

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